

# SEC. 326.

## **BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A-76**

(a) TREATMENT OF AGENCY TENDER OFFICIAL AS INTERESTED PARTY- Section 3551(2) of title 31, United States Code, is amended--

- (1) by inserting `(A)' after `(2)'; and
- (2) by adding at the end the following new subparagraph:
- `(B) The term includes the official responsible for submitting the Federal agency tender in a public-private competition conducted under Office of Management and Budget Circular A-76 regarding an activity or function of a Federal agency performed by more than 65 full-time equivalent employees of the Federal agency.'.

(b) FILING OF PROTEST ON BEHALF OF FEDERAL EMPLOYEES- Section 3552 of such title is amended--

- (1) by inserting `(a)' before `A protest'; and
- (2) by adding at the end the following new subsection:

`(b)(1) In the case of an agency tender official who is an interested party under section 3551(2)(B) of this title, the official may file a protest in connection with the public-private competition for which the official is an interested party. At the request of a majority of the employees of the Federal agency who are engaged in the performance of the activity or function subject to such public-private competition, the official shall file a protest in connection with such public-private competition unless the official determines that there is no reasonable basis for the protest.

`(2) The determination of an agency tender official under paragraph (1) whether or not to file a protest is not subject to administrative or judicial review. An agency tender official shall provide written notification to Congress whenever the official makes a determination under paragraph (1) that there is no reasonable basis for a protest.'.

(c) INTERVENTION IN PROTEST- Section 3553 of such title is amended by adding at the end the following new subsection:

`(g) If an interested party files a protest in connection with a public-

private competition described in section 3551(2)(B) of this title, a person representing a majority of the employees of the Federal agency who are engaged in the performance of the activity or function subject to the public-private competition may intervene in protest.'.

(d) **APPLICABILITY-** The amendments made by this section shall apply to protests filed under subchapter V of chapter 35 of title 31, United States Code, that relate to studies initiated under Office of Management and Budget Circular A-76 on or after the end of the 90-day period beginning on the date of the enactment of this Act.

(e) **RULE OF CONSTRUCTION-** The amendments made by this section shall not be construed to authorize the use of a protest under subchapter V of chapter 35 of title 31, United States Code, with regard to a decision made by an agency tender official.